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EUROPE

Church Office Failed to Act on Abuse Scandal

By LAURIE GOODSTEIN and DAVID M. HALBFINGER JULY 1, 2010

In its long struggle to grapple with sexual abuse, the Vatican often cites as a major turning point the decision in 2001 to give the office led by Cardinal Joseph Ratzinger the authority to cut through a morass of bureaucracy and handle abuse cases directly.

The decision, in an apostolic letter from Pope John Paul II, earned Cardinal Ratzinger, now Pope Benedict XVI, a reputation as the Vatican insider who most clearly recognized the threat the spreading sexual abuse scandals posed to the Roman Catholic Church.

But church documents and interviews with canon lawyers and bishops cast that 2001 decision and the future pope's track record in a new and less flattering light.

The Vatican took action only after bishops from English-speaking nations became so concerned about resistance from top church officials that the Vatican convened a secret meeting to hear their complaints — an extraordinary example of prelates from across the globe collectively pressing their superiors for reform, and one that had not previously been revealed.

And the policy that resulted from that meeting, in contrast to the way it has been described by the Vatican, was not a sharp break with past practices. It was mainly a belated reaffirmation of longstanding church procedures that at least one bishop attending the meeting argued had been ignored for too long, according to church documents and interviews.

The office led by Cardinal Ratzinger, the Congregation for the Doctrine of the Faith, had actually been given authority over sexual abuse cases nearly 80 years earlier, in 1922, documents show and canon lawyers confirm. But for the two decades he was in charge of that office, the future pope never asserted that authority, failing to act even as the cases undermined the church's credibility in the United States, Australia, Ireland and elsewhere.

Bishop Geoffrey Robinson, an outspoken auxiliary bishop emeritus from Sydney, Australia, who attended the secret meeting in 2000, said that despite numerous warnings, top Vatican officials, including Benedict, took far longer to wake up to the abuse problems than many local bishops did.

“Why did the Vatican end up so far behind the bishops out on the front line, who with all their faults, did change — they did develop,” he said. “Why was the Vatican so many years behind?”

Cardinal Ratzinger, of course, had not yet become pope, a divinely ordained office not accustomed to direction from below. John Paul, his longtime superior, often dismissed allegations of pedophilia by priests as an attack on the church by its enemies. Supporters say that Cardinal Ratzinger would have preferred to take steps earlier to stanch the damage in certain cases.

But the future pope, it is now clear, was also part of a culture of nonresponsibility, denial, legalistic foot-dragging and outright obstruction. More than any top Vatican official other than John Paul, it was Cardinal Ratzinger who might have taken decisive action in the 1990s to prevent the scandal from metastasizing in country after country, growing to such proportions that it now threatens to consume his own papacy.

As pope, Benedict has met with victims of sexual abuse three times. He belatedly reopened an investigation into the Rev. Marcial Maciel Degollado, founder of the Legionaries of Christ, a powerful religious order — and a protégé of John Paul's — and ultimately removed him from ministry. He gave American bishops greater leeway to take a tough line on abuse in the United States, and recently accepted the resignations of several bishops elsewhere. And on June 11, at an event in St. Peter's Square meant to celebrate priests, he begged "forgiveness from God and from the persons involved" and promised to do "everything possible" to prevent future abuse.

But today the abuse crisis is still raging in the Catholic heartland of Europe: civil investigators in Belgium last week took the rare step of raiding church headquarters and the home of a former archbishop. The Vatican under Benedict is still responding to abuse by priests at its own pace, and it is being besieged by an outside world that wants it to move faster and more decisively.

Vatican officials, who declined to answer detailed questions related to Benedict's history, say that the church will announce another round of changes to its canon laws, as it did in 2001, so that the church can improve its response to the abuse problem.

But the suggestion that more reforms are ahead is a nod to the fact that there is still widespread confusion among many bishops about how to handle allegations of abuse, and that their approaches are remarkably uneven from country to country.

National bishops' conferences in some countries have adopted their own norms and standards. But several decades after sexual abuse by priests became a problem, Benedict has not yet instituted a universal set of rules.

Scandal and Confusion

The sexual abuse scandal first caught much of the world's attention in 2002, with reports that the Boston archdiocese had been covering up for molesters for years. But the alarm bells had already been sounding for nearly two decades in many countries. In Lafayette, La., in 1984, the Rev. Gilbert Gauthé admitted to molesting 37

youngsters. In 1989, a sensational case erupted at an orphanage in the Canadian province of Newfoundland. By the mid-1990s, about 40 priests and brothers in Australia faced abuse allegations. In 1994, the Irish government was brought down when it botched the extradition of a notorious pedophile priest.

Bishops had a variety of disciplinary tools at their disposal — including the power to remove accused priests from contact with children and to suspend them from ministry altogether — that they could use without the Vatican's direct approval.

Some used this authority to sideline abusive priests, minimizing the damage inflicted on their victims. Other bishops clearly made things worse, by shuffling abusers from one assignment to the next, never telling parishioners or reporting priests to the police.

But as court cases, financial settlements and media coverage mounted, many prelates looked to the Vatican for leadership and clarity on how to prosecute abusers under canon law and when to bring cases to the attention of the civil authorities. In the worst cases, involving serial offenders who denied culpability and resisted discipline, some bishops sought the Vatican's guidance on how to dismiss them from the priesthood.

For this, bishops needed the Vatican's help. Dismissing a priest is not like disbarring a lawyer or stripping a doctor of his medical license. In Catholic theology, ordaining a priest creates an indelible mark; to return him to the lay state required the approval of the pope.

Yet throughout the '80s and '90s, bishops who sought to penalize and dismiss abusive priests were daunted by a bewildering bureaucratic and canonical legal process, with contradicting laws and overlapping jurisdictions in Rome, according to church documents and interviews with bishops and canon lawyers.

Besides Cardinal Ratzinger's Congregation for the Doctrine of the Faith, bishops were sending off their files on abuse cases to the Congregations for the Clergy, for Bishops, for Divine Worship and the Discipline of the

Sacraments, and for the Evangelization of Peoples — plus the Vatican's Secretariat of State; its appeals court, the Apostolic Signatura; and the Pontifical Council for Legislative Texts.

“There was confusion everywhere,” said Archbishop Philip Edward Wilson of Adelaide, Australia.

A new Code of Canon Law issued in 1983 only muddled things further, among other things by setting a five-year statute of limitations within which abuse cases could be prosecuted.

During this period, the three dozen staff members working for Cardinal Ratzinger at the Congregation for the Doctrine of the Faith were busy pursuing other problems. These included examining supernatural phenomena, like apparitions of the Virgin Mary, so that hoaxes did not “corrupt the faith,” according to the Rev. Brian Mulcahy, a former member of the staff. Other sections weighed requests by divorced Catholics to remarry and vetted the applications of former priests who wanted to be reinstated.

The heart of the office, though, was its doctrinal section. Cardinal Ratzinger, a German theologian appointed prefect of the congregation in 1981, aimed his renowned intellectual firepower at what he saw as “a fundamental threat to the faith of the church” — the liberation theology movement sweeping across Latin America.

As Father Gauthé was being prosecuted in Louisiana, Cardinal Ratzinger was publicly disciplining priests in Brazil and Peru for preaching that the church should work to empower the poor and oppressed, which the cardinal saw as a Marxist-inspired distortion of church doctrine. Later, he also reined in a Dutch theologian who thought lay people should be able to perform priestly functions, and an American who taught that Catholics could dissent from church teachings about abortion, birth control, divorce and homosexuality.

Different Focus for Cardinal

Cardinal Ratzinger also focused on reining in national bishops' conferences, several of which, independent of Rome, had begun confronting the sexual abuse crisis and devising policies to address it in their countries. He

declared that such conferences had “no theological basis” and “do not belong to the structure of the church.” Individual bishops, he reaffirmed, reigned supreme in their dioceses and reported only to the authority of the pope in Rome.

Another hint of his priorities came at a synod in 1990, when a bishop from Calgary gingerly mentioned the growing sexual abuse problem in Canada. When Cardinal Ratzinger rose to speak, however, it was of a different crisis: the diminishing image of the priesthood since the Second Vatican Council, and the “huge drop” in the numbers of priests as many resigned.

That concern — that the irrevocable commitment to the priesthood was being undermined by the exodus of priests leaving to marry or because they were simply disenchanted — had already led Cardinal Ratzinger to block the dismissal of at least one priest convicted of molestation, documents show.

“Look at it from the perspective of priestly commitment,” said the Rev. Joseph Fessio, a former student of Cardinal Ratzinger’s and founder of the conservative publishing house Ignatius Press. “You want to get married? You’re still a priest. You’re a sex offender? Well, you’re still a priest. Rome is looking at it from the objective reality of the priesthood.”

After another abuse scandal in 1992 in Fall River, Mass., bishops in the United States pressed the Vatican for an alternative to the slow and arcane canonical justice system. Without a full canonical trial, clerics accused of abuse could not be dismissed from the priesthood against their will (although a bishop could impose some restrictions short of that). In 1993, John Paul said he had heard the American bishops’ pleas and convened a joint commission of American and Vatican canonists to propose improvements.

John Paul rejected its proposal to let bishops dismiss priests using administrative procedures, without canonical trials. But he agreed to raise the age of majority to 18 from 16 for child-molestation cases. More important, he extended the statute of limitations to 10 years after the victim’s 18th birthday.

It is not known whether Cardinal Ratzinger spoke up in the internal deliberations that led to the two changes, which applied only to the United States.

But those changes clearly did not go far enough. And as the crisis steadily spread in other countries, bishops and church administrators from across the English-speaking world began meeting to compare notes on how to respond to it. After gathering on their own in 1996 and 1998, they demanded that the Curia, the Vatican's administration, meet with them in Rome in 2000.

Frustrations Boil Over

The visiting bishops had reached the boiling point. After flailing about for 20 years, with little guidance from Rome, as stories about pedophile priests embroiled the church in lawsuits, shame and scandal, they had flown in to Rome from Australia, Canada, England and Wales, Ireland, New Zealand, Scotland, South Africa, the United States and the West Indies.

Many came out of frustration: the Vatican had too often thwarted bishops' attempts to oust pedophile priests in their jurisdictions. Yet they had high hopes that they would make the case for reform. Nearly every major Vatican office was represented in the gathering, held in the same Vatican hotel that was built to house cardinals electing a new pope.

"The message we wanted to get across was: if individuals are to hide behind church law and use that law to impede the ability of bishops to discipline priests, then we have to have a new way of moving forward," said Eamonn Walsh, auxiliary bishop of Dublin, one of 17 bishops who attended from overseas. (He was one of several Irish bishops who offered the pope their resignations last year because of the abuse scandal, but his has not been accepted.)

Yet many at the meeting grew dismayed as, over four long days in early April 2000, they heard senior Vatican officials dismiss clergy sexual abuse as a problem confined to the English-speaking world, and emphasize the need to

protect the rights of accused priests over ensuring the safety of children, according to interviews with 10 church officials who attended the meeting.

Cardinal Darío Castrillón Hoyos, then the head of the Congregation for the Clergy, set the tone, playing down sexual abuse as an unavoidable fact of life, and complaining that lawyers and the media were unfairly focused on it, according to a copy of his prepared remarks. What is more, he asked, is it not contradictory for people to be so outraged by sexual abuse when society also promotes sexual liberation?

Another Vatican participant even observed that many pedophile priests had Irish surnames, a remark that offended delegates from Ireland.

“Prejudices came out,” said Bishop Robinson of Australia. “There were some very silly things said at times.”

Though disappointed, the visiting bishops were not entirely surprised.

“It wasn’t that there was bad will in Rome,” Bishop Walsh said. “They just didn’t have the firsthand experience that the dioceses were having around the world — experience with the manipulative, devious ways of the perpetrators. If the perpetrator said, ‘I didn’t do it,’ they would say, ‘He wouldn’t be telling a lie, he has to be telling the truth, and he’s innocent until proven guilty.’ ”

An exception to the prevailing attitude, several participants recalled, was Cardinal Ratzinger. He attended the sessions only intermittently and seldom spoke up. But in his only extended remarks, he made clear that he saw things differently from others in the Curia.

“The speech he gave was an analysis of the situation, the horrible nature of the crime, and that it had to be responded to promptly,” recalled Archbishop Wilson of Australia, who was at the meeting in 2000. “I felt, this guy gets it, he’s understanding the situation we’re facing. At long last, we’ll be able to move forward.”

Clarity Comes in a Letter

Even so, the meeting served as much to expose Cardinal Ratzinger's inattention to the problem as it did to showcase his new attitude.

Archbishop Wilson said in an interview that during the session he had to call Vatican officials' attention to long-ignored papal instructions, dating from 1922, and reissued in 1962, that gave Cardinal Ratzinger's Congregation for the Doctrine of the Faith, previously known as the Holy Office, sole responsibility for deciding cases of priests accused of particularly heinous offenses: solicitation of sex during confession, homosexuality, pedophilia and bestiality.

Archbishop Wilson said he had stumbled across the old instructions as a canon law student in the early 1990s. And he eventually learned that canonists were deeply divided on whether the old instructions or the 1983 canon law — which were at odds on major points — should hold sway.

If the old instructions had prevailed, then there would be no cause for confusion among bishops across the globe: all sexual abuse cases would fall under Cardinal Ratzinger's jurisdiction.

(The Vatican has recently insisted that Cardinal Ratzinger's office was responsible only for cases related to priests who solicited sex in the confessional, but the 1922 instructions plainly gave his office jurisdiction over sexual abuse cases involving "youths of either sex" that did not involve violating the sacrament of confession.)

Few people in the room had any idea what Archbishop Wilson was talking about, other participants recalled. But Archbishop Wilson said he had discussed the old papal instructions with Cardinal Ratzinger's office in the late 1990s and had been told that they indeed were the prevailing law in pedophilia cases.

Just over a year later, in May 2001, John Paul issued a confidential apostolic letter instructing that all cases of sexual abuse by priests were thenceforth to be handled by Cardinal Ratzinger's office. The letter was called "Sacramentorum Sanctitatis Tutela," Latin for "Safeguarding the Sanctity of the Sacraments."

In an accompanying cover letter, Cardinal Ratzinger, who is said to have been heavily involved in drafting the main document, wrote that the 1922 and 1962 instructions that gave his office authority over sexual abuse by priests cases were “in force until now.”

The upshot of that phrase, experts say, is that Catholic bishops around the world, who had been so confused for so long about what to do about molestation cases, could and should have simply directed them to the Congregation for the Doctrine of the Faith all along.

Bishops and canon law experts said in interviews that they could only speculate as to why the future pope had not made this clear many years earlier.

“It makes no sense to me that they were sitting on this document,” said the Rev. John P. Beal, a canon law professor at the Catholic University of America. “Why didn’t they just say, ‘Here are the norms. If you need a copy we’ll send them to you?’ ”

Nicholas P. Cafardi, a Catholic expert in canon law who is dean emeritus and professor of law at Duquesne University School of Law, said, “When it came to handling child sexual abuse by priests, our legal system fell apart.”

There was additional confusion over the statute of limitations for sexual abuse cases — or whether there even was one, given the Vatican’s reaffirmation of the 1922 and 1962 papal instructions. Many bishops had believed that they could not prosecute cases against priests because they exceeded the five-year statute of limitations enacted in 1983, effectively shielding many molesters since victims of child abuse rarely came forward until they were well into adulthood.

Mr. Cafardi, who is also the author of “Before Dallas: The U.S. Bishops’ Response to Clergy Sexual Abuse of Children,” argued that another effect of the 2001 apostolic letter was to impose a 10-year statute of limitations on pedophilia cases where, under a careful reading of canon law, none had previously applied.

“When you think how much pain could’ve been prevented, if we only had a clear understanding of our own law,” he said. “It really is a terrible irony. This did not have to happen.”

Though the apostolic letter was praised for bringing clarity to the subject, it also reaffirmed a requirement that such cases be handled with the utmost confidentiality, under the “pontifical secret” — drawing criticism from many who argued that the church remained unwilling to report abusers to civil law enforcement.

Reforms, but Limited Reach

After the new procedures were adopted, Cardinal Ratzinger’s office became more responsive to requests to discipline priests, said bishops who sought help from his office. But when the sexual abuse scandal erupted again, in Boston in 2002, it immediately became clear to American bishops that the new procedures were inadequate.

Meeting in Dallas in the summer of 2002, the American bishops adopted a stronger set of canonical norms requiring bishops to report all criminal allegations to the secular authorities, and to permanently remove from ministry priests facing even one credible accusation of abuse. They also sought from the Vatican a streamlined way to discipline priests that would not require a drawn-out canonical trial.

The Vatican initially rejected the American bishops’ proposed norms. A committee of American bishops and Vatican officials, including Cardinal Ratzinger’s deputy, watered down the American mandatory-reporting requirement to say only that bishops must comply with civil laws on reporting crimes, which vary widely from place to place.

The Congregation for the Doctrine of the Faith reserved for itself the power to dismiss a man from the priesthood without a full canonical trial — the kind of administrative remedy that American bishops had long been begging the Vatican to delegate to them.

Even so, the American bishops got most of what they asked for, and Cardinal Ratzinger was their advocate, said Archbishop Wilton D. Gregory, then the president of the United States Conference of Catholic Bishops.

The Americans were allowed to keep their zero-tolerance provision for abusive priests, making the rules for the church in the United States far more stringent than in most of the rest of the world. The Congregation for the Doctrine of the Faith also said it would waive the statute of limitations on a case-by-case basis if bishops asked.

Archbishop Gregory said he made 13 trips to Rome in three years, almost always meeting with Cardinal Ratzinger.

“He was extraordinarily supportive of what we were doing,” Archbishop Gregory said in an interview.

Other reforms enacted by American bishops included requiring background checks for church personnel working with children, improved screening of seminarians, training in recognizing abuse, annual compliance audits in each diocese and lay review boards to advise bishops on how to deal with abuse cases.

Those measures seem to be having an impact. Last year, according to the United States Conference of Catholic Bishops, 513 people made allegations of sexual abuse against 346 priests or other church officials, roughly a third fewer cases than in 2008.

Yet the Vatican did not proactively apply those policies to other countries, and it is only now grappling with abuse problems elsewhere. Reports have surfaced of bishops in Chile, Brazil, India and Italy who quietly kept accused priests in ministry without informing local parishioners or prosecutors.

Benedict, now five years into his papacy, has yet to make clear if he intends to demand of bishops throughout the world — and of his own Curia — that all priests who committed abuse and bishops who abetted it must be punished.

As the crisis has mushroomed internationally this year, some cardinals in the Vatican have continued to blame the news media and label the criticism anti-Catholic persecution. Benedict himself has veered from defensiveness to contrition, saying in March that the faithful should not be intimidated by “the petty gossip of dominant opinion” — and then in May telling reporters that “the greatest persecution of the church does not come from the enemies outside, but is born from the sin in the church.”

The Vatican, moreover, has never made it mandatory for bishops around the world to report molesters to the civil authorities, or to alert parishes and communities where the abusive priests worked — information that often propels more victims to step forward. (Vatican officials caution that a reporting requirement could be dangerous in dictatorships and countries where the church is already subject to persecution.)

It was only in April that the Vatican posted “guidelines” on its Web site saying that church officials should comply with civil laws on reporting abuse. But those are recommendations, not requirements.

Today, a debate is roiling the Vatican, pitting those who see the American zero-tolerance norms as problematic because they lack due process for accused priests, against those who want to change canon law to make it easier to penalize and dismiss priests.

Where Benedict lies on this spectrum, even after nearly three decades of handling abuse cases, is still an open question.

Rachel Donadio contributed reporting from Rome.

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